

HOUSE No. 886

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and others relative to the liability of persons transporting operators of motor vehicles arrested for drunk driving. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Bradley H. Jones, Jr.	Bradford Hill
Mary S. Rogeness	Susan Williams Gifford
George N. Peterson, Jr.	Robert S. Hargraves
John A. Lepper	Karyn E. Polito
Viriato Manuel deMacedo	Shirley Gomes
Elizabeth A. Poirier	Michael J. Coppola
Donald F. Humason, Jr.	Todd M. Smola
Susan W. Pope	Richard J. Ross

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE LIABILITY FOR PERMITTING AN INTOXICATED ARRESTEE TO OPERATE A MOTOR VEHICLE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 90 of the General Laws, as appearing in the 2002 Offi-
2 cial Edition, is hereby amended by inserting after section 24, the
3 following section:—

4 Section 24 ½.

5 (a) Any vehicle operated by a person arrested for a violation of
6 subparagraph (1) of paragraph (a) of section 24 or section 24L
7 shall be removed and impounded as provided by the provisions of
8 this section, section 69L of chapter 111 and section 2C of
9 chapter 85 and any rule or regulation adopted thereunder, for a
10 period not less than 12 hours from the time of such arrest.

11 (b) Whenever a person is summoned by or on behalf of a
12 person who has been arrested for a violation of subparagraph (1)
13 of paragraph (a) of section 24 or section 24L, in order to transport

14 or accompany the arrestee from the premises of a law enforcement
15 agency, the law enforcement agency shall provide that person with
16 a written statement advising that person of the potential criminal
17 and civil liability for permitting or facilitating the arrestee's oper-
18 ation of a motor vehicle while the arrestee remains under the
19 influence or impaired by alcohol, drugs, drugs and alcohol, a con-
20 trolled dangerous substance, or any combination thereof.

21 (1) The person to whom the statement is issued shall acknowl-
22 edge, in writing, receipt of the statement, or the law enforcement
23 agency shall record the fact that the written statement was pro-
24 vided, but the person refused to sign an acknowledgment.

25 (2) The attorney general shall establish the content and form of
26 the written statement and acknowledgment to be used by law
27 enforcement agencies throughout the commonwealth.

28 (3) Nothing in this section shall impose any obligation on a
29 physician or other health care provider involved in the treatment
30 or evaluation of the arrestee.

31 (c) A motor vehicle impounded under this section may not be
32 released unless the person claiming the motor vehicle:

33 (2) Presents a valid driver's license, proof of ownership of or
34 lawful authority to operate the motor vehicle, and proof of valid
35 motor vehicle insurance for that motor vehicle, or

36 (3) Subject to review of the district court, meets any other rea-
37 sonable condition for release that is established by the law
38 enforcement agency.

39 (d) A law enforcement agency that impounds a motor vehicle
40 under this section may charge a reasonable fee for towing and
41 storage of the motor vehicle and may retain the motor vehicle
42 until the fee is paid.